

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-218028 **DATE:** February 20, 1985  
**MATTER OF:** Blinderman Construction Company--  
Reconsideration  
**DIGEST:**

Decision is affirmed where protester has not established that it was based on erroneous interpretation of fact or law.

Blinderman Construction Company (Blinderman) requests reconsideration of our decision in Blinderman Construction Company, B-216298, Dec. 24, 1984, 84-2 C.P.D. ¶ 688, in which we denied Blinderman's protest against an award to another bidder.

Blinderman asserts that our decision is contrary to established case law and rules of contract interpretation requiring agencies to inform bidders of contract requirements, that there is no evidence that the Veterans Administration's (VA) engineers are more knowledgeable than the protester's and that Blinderman was prejudiced by the solicitation calling for separate bids by item and, thus, award cannot properly be justified under Contract International, Inc.--Request for Reconsideration, B-210082.2, Sept. 2, 1983, 83-2 C.P.D. ¶ 294.

The prior decision is affirmed.

Blinderman's assertion that we did not follow unspecified established case law and rules of contract interpretation regarding proper solicitation notice is inapposite. The VA conceded, and we recognized in our decision, that the solicitation should have specified that an aggregate award was contemplated. We held that despite the failure to specify an aggregate award, the VA properly determined that an aggregate award was in the best interests of the government, and that the offerors were not prejudiced by the solicitation deficiency.

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Regarding Blinderman's allegation that there is no evidence of the superior expertise of the VA engineers who determined that project coordination required an aggregate award, we do not conduct a review of the relative qualification of the protester's personnel vis-a-vis agency personnel. Rather, we have consistently held that the determination of an agency's minimum needs and the methods of accommodating these needs are primarily the responsibility of the procuring activity, which has broad discretion in this regard. Integrated Forest Management, B-200127, Mar. 2, 1982, 82-1 C.P.D. ¶ 182. Agency officials who are familiar with the conditions under which supplies and services will be used are generally in the best position to know those actual needs and, therefore, are best able to determine them. Keystone Die Engine Company, Inc., B-187338, Feb. 23, 1977, 77-1 C.P.D. ¶ 128. Consequently, we will not question an agency's determination of its minimum needs unless there is a clear showing that the determination is unreasonable. International Business Investments, Inc., B-213723, June 26, 1984, 84-1 C.P.D. ¶ 668.

As we held in the original decision, this showing is not established by the protester's contention that there is no necessity for coordination of the two projects in question by award to one contractor, when, as here, there is an obvious relationship between the two construction projects in question, and the agency determines that project coordination is necessary. The fact that the solicitation specifications were drafted for the VA by a private architect-engineering firm does not alter the above finding since the bid package was approved by cognizant VA officials. Further, we see no merit in Blinderman's assertion that since work on the project allegedly has not yet commenced, the VA determination that project coordination was required was not valid.

Blinderman also asserts that the award cannot properly be justified under Contract International, Inc.--Request for Reconsideration, B-210082.2, supra, cited in our earlier decision, because Blinderman, in fact, has been prejudiced by the defective solicitation specifications. As evidence of this prejudice, Blinderman points out that it has expended monies and effort in preparing its bid and has suffered lost profits as the result of not having been awarded the contract. However, Blinderman misconstrues the meaning of our holding that it was not prejudiced. As explained in our decision, all bidders bid and were evaluated on the same basis, that is, all bid on both items and there is no evidence of unbalanced bidding resulting from the VA's failure to specify an aggregate award.

Thus, while Blinderman may have expended monies and will not receive anticipated profits, it was not prejudiced in the relevant legal sense because it was afforded an opportunity to compete and be evaluated on a common basis with the other bidders. There is nothing in the record to suggest that any bidding advantage or disadvantage accrued to any of the bidders as a result of the solicitation deficiency.

Blinderman also claims bid preparation costs on the ground that its low bid responded precisely to the format called for by the solicitation. Because we have found Blinderman's protest without merit, its claim for bid preparation costs is also denied. Mechanical Equipment Company, Inc., B-213236, Sept. 5, 1984, 84-2 C.P.D. ¶ 256.

We deny the request for reconsideration.

*Milton J. Fowler*  
for Comptroller General  
of the United States